

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

REBECCA BOUTWELL, an individual,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
vs.)	
)	
)	
FEDERAL-MOGUL CORPORATION., a)	
corporation or similar business entity, and)	PLAINTIFF DEMANDS
KELLY SERVICES, INC. , a corporation or)	A TRIAL BY STRUCK
similar business entity,)	JURY
)	
Defendants.)	

COMPLAINT

COMES NOW the Plaintiff and hereby brings suit against the defendants as follows:

JURISDICTION AND VENUE

1. This is a diversity action in which the Plaintiff alleges that she was terminated from her employment assignment with Federal-Mogul Corporation in retaliation for her jury duty service. She asserts a claim for retaliatory discharge in violation of Alabama Code § 12-16-8.1(a).

2. This Court has diversity jurisdiction over this matter pursuant to 28 U.S.C. § 1332. The Plaintiff in this action is a resident of the State of Alabama. Both Defendant companies are Delaware corporations. The amount in controversy in this action, which includes backpay, compensatory damages, punitive damages, pre-judgment and post-

judgment interest, and attorney's fees and costs, exceeds \$75,000.

3. Venue is proper under 28 U.S.C. § 1391(b) in that the Defendants employed the Plaintiff in Morgan County, Alabama.

PARTIES

4. Plaintiff is an adult resident of Morgan County, Alabama.
5. Defendant Federal-Mogul Corporation ("FMC") is a foreign corporation incorporated in the State of Delaware doing business, upon information and belief, in Calhoun, Limestone, and Etowah counties.
6. Defendant Kelly Services, Inc. ("Kelly") is a foreign corporation incorporated in the State of Delaware doing business in the State of Alabama, including, but not limited to, Morgan County.
7. Both Defendants Kelly and FMC were joint employers of the Plaintiff on or about December 13, 2007.

FACTUAL ALLEGATIONS

8. Defendant Kelly, a temporary agency, placed the Plaintiff in the position of "set up", an F-6 position, with defendant FMC.
9. The Plaintiff earned \$10.55 an hour/\$15.95 an hour with an incentive at her position with Kelly and FMC.
10. The Plaintiff reported for jury duty the week of December 10, 2007, in the Circuit Court of Morgan County.
11. The Plaintiff previously informed the Defendants of her need to report for jury duty.
12. The Plaintiff continued to call Defendant FMC throughout her jury duty service to inform FMC of her continuing need to report for jury duty.
13. On December 10, 2007, the Plaintiff called Defendant FMC to report that

she was selected for jury duty service.

14. On December 11, 2007, the Plaintiff called Defendant FMC to report that the Court informed her that she would be serving in a jury for a case that was to last the entire week.
15. On December 12, 2007, the Plaintiff attempted to call the Defendant FMC and left a message on the Defendant FMC's answering service.
16. On or about December 13, 2007, Defendant Kelly informed the Plaintiff that Defendant FMC terminated her employment.
17. The reason given to the Plaintiff for her termination was failure to call into work during the time she was serving jury duty.
18. The reason given for the Plaintiff's termination was false.
19. At the time of her termination, the Plaintiff was still serving jury duty.

COUNT I

RETALIATION ALABAMA CODE § 12-16-8.1(a)

20. The Plaintiff adopts and incorporates the facts alleged above in support of this Count
21. In December 2007, the Plaintiff served on a jury empaneled in Morgan County, Alabama.
22. While the Plaintiff was serving on jury duty, the Defendants terminated her employment.
23. The Defendants subjected the Plaintiff to adverse job actions, including termination, in violation of Alabama Code § 12-16-8.1(a).
24. As a proximate result of the Defendants' unlawful conduct, Plaintiff has suffered financial hardship, pain and suffering, mental anguish and public

humiliation.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays that this Honorable Court will issue a judgment against the Defendants awarding the following to the Plaintiff:

- a. Backpay damages to be calculated by taking the earnings the Plaintiff would have earned had her employment assignments with the Defendants continued and subtracting any interim earnings;
- b. Compensatory damages to be determined by the trier of fact sufficient make the Plaintiff whole;
- c. Punitive damages to be determined by the trier of fact sufficient to punish the Defendants for their wrongful conduct and deter future wrongful conduct;
- d. Pre-judgment and post-judgment interest;
- e. That relief which is just, equitable, and fair; and
- f. Reasonable attorney's fees and costs.

COUNT II

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (OUTRAGE)

25. The Plaintiff adopts and incorporates the facts alleged above in support of this Count
26. Defendants outrageously and intentionally inflicted emotional distress upon Plaintiff by terminating Plaintiff from her employment because she performed her civic duty by answering a summons for jury duty.
27. Defendants authorized, ratified and/or condoned its agent's actions which amounted to the tort of outrage.
28. Plaintiff has been irreparably damaged, suffered physical distress, financial

hardship and mental anguish as a consequence of Defendant's unlawful conduct.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays that this Honorable Court will issue a judgment against the Defendants awarding the following to the Plaintiff:

- a. Actual damages;
- b. Compensatory damages;
- c. Punitive damages;
- d. Pre-judgment and post-judgment interest;
- e. That relief which is just, equitable, and fair; and
- f. Reasonable attorney's fees and costs.

PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY

Respectfully submitted,

Heather N. Leonard
ASB-1152-O61H
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PLEASE SERVE DEFENDANTS VIA CERTIFIED MAIL:

Federal-Mogul Corporation

c/o CSC Lawyers Incorporating Srv. Inc. (Registered Agent)
150 S Perry Street
Montgomery, AL 36104

Kelly Services, Inc.
c/o The Corporation Company (Registered Agent)
2000 Interstate Park Drive, Suite 204
Montgomery, AL 36109